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DEPARTMENT FOR IO/UNP AND L/DL

E.O. 12958: N/A

TAGS: [OFDP](#) [UN](#) [KE](#)

SUBJECT: CHILD ABUSE CASE HEADED FOR PROBABLE RESOLUTION

¶1. Summary: USUN received a call from NYPD Saturday night (11/11) that Kenya Mission to the UN Second Secretary Fredrick Matwang'a had been temporarily taken into custody for allegedly beating and causing injury to his nine-year-old son at their Queens home. NYPD released Matwang'a once his diplomatic status was confirmed. Both Matwang'a's son and three-year old daughter were transferred to NYC'S Administration for Children's Services (ACS) in protective custody pending further assessment. On Monday (11/13) Matwang'a and his wife, accompanied by Kenya MUN's DPR and a legal affairs officer, Karen Odaba-Mosoti, met at the offices of the NYC Commission for the United Nations, Consular Corps and Protocol (NYCC) with NYCC, ACS and USUN officials. Matwang'a and his wife gave voluntary written consent to the temporary removal of the children (without waiving any privileges and immunities) until Wednesday (11/15), at which time further action, based on the ACS assessment, will be discussed. The New York Post has reported two articles on the incident, which has been carried by Associated Press and picked up by many other newspapers and media outlets. USUN will keep Department informed of further developments. End summary.

¶2. Matwang'a is alleged to have beaten his nine-year-old son, Newton Lusambili, on the head with a wooden stick, causing a laceration to his head, and to have chased him through the house with a knife. Press reports indicate that the child sought refuge with a neighbor, but upon not receiving entry from the frightened neighbor, hid in an alley behind the neighbor's house. The press accounts also state that the boy's father appeared at the neighbor's door looking for his son. The neighbor, not believing the father's calm demeanor and also fearing for the boy's safety, directed the father in an opposite direction and then contacted the police. The police took the father into custody and took the child to the hospital, where he was treated and released to NYPD and transferred to the protective custody of NYC's ACS along with his three year-old sister, Juliana Matwang'a.

¶3. USUN spoke with NYCC officials as well as with the Kenyan Permanent Representative to the UN, Ambassador Zachary Muita, urging his Mission's full cooperation. ACS has decided to allow the children to reside temporarily with Kenyan Mission legal officer, Karen Odaba-Mosoti, on the understanding that the father is to have no contact with either child pending the results of an ACS assessment to be conducted between now and Wednesday. The mother will be allowed to visit the children at Ms. Odaba-Mosoti's residence, and pending the results of the ACS assessment, may be allowed to reside with Ms. Odaba-Mosoti after Wednesday. Mr. and Mrs. Matwang'a signed an agreement, the text of which appears in paragraph 6 below. The agreement was drafted by NYC officials after the Kenyan Mission expressed reluctance to sign the standard NYC removal agreement on the grounds that the language appearing

within suggested that the family's immunities had been waived.

¶4. The New York Post article of November 13, 2006, and the AP report both mentioned the possibility of NYC prosecuting Mr. Matwang'a if Kenya lifts his immunity or of having him expelled. New York City officials are not contemplating any such step. The AP report has been disseminated widely in newspapers and other media outlets.

¶5. Comment: Throughout discussions with the Matwang'a's and the Kenyan Mission to the UN representatives, the USUN, ACS and NYCC officials emphasized that the welfare of the children was the paramount, overriding concern and that the assessment undertaken is part of a process designed to unify and strengthen families by providing a development plan (e.g., counseling, anger management training, etc.) to bring about a result that would enable there to be a safe, secure environment for the children and parents to move forward. USUN will keep Department informed of further developments. End comment.

¶6. Begin text of the agreement -

Consent to temporary removal of children by the New York City Administration for Children's Services

We, Caroline Matwanga and Fredrick Matwanga, being the parents of Newton Lusambili and Jiliana Matwanga, understand that the New York City Administration for Children's Services (ACS) is temporarily removing our children from our place of residence for the purpose of placing them in protective custody. We consent to such removal and further understand that this consent is temporary and remains in effect until Wednesday, November 15, 2006 at which point it will be followed up with such further actions as are necessary for the protection of the children. The voluntary consent is not

a waiver of privileges and immunities.

Signed and dated by both Caroline and Fredrick Matwang'a

End text
BOLTON